



**Thurrock  
Clinical Commissioning Group**

# **Complaints, Concerns and Compliments Policy**

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## 1 INTRODUCTION

- 1.1 This document is the policy of NHS Thurrock Clinical Commissioning Group (CCG) for handling complaints under the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (“the regulations”), which took effect on 1st April 2009 and as clarified by the Department of Health in January 2010.
- 1.2 It is the intention of the CCG to capture the spirit of the legislation by creating an open, fair, flexible and conciliatory approach to all complaints, viewing them as opportunities to address concerns rather than as criticisms that need to be defended. All complaints are treated equally and with the same matter of expediency, however where urgent complaints are identified (and confirmed by the Chief Nurse); such complaints will be given priority, without detriment to other complaints.
- 1.3 This policy is compliant with the Parliamentary and Health Service Ombudsman’s (PHSO) “Principles for Remedy” (February 2009), “Principles of Good Complaints Handling” (February 2009) and “Principles of Good Administration” (February 2009).
- 1.4 The policy also reflects the Duty of Candour placed upon all NHS commissioners and providers by the Health and Social Care Act 2012 and the Patients Association “Good Practice Standards for NHS Complaints Handling” (July 2013), both of which arose from the Francis Inquiry into the failings at Mid Staffordshire Hospitals NHS Foundation Trust.
- 1.5 With effect from 1<sup>st</sup> April 2016, Continuing Healthcare (CHC) (and Personal Health Budgets (PHB)) services were brought back in-house. This policy therefore includes any complaints made in relation to CHC and PHB. In particular those relating to referrals that do not meet eligibility criteria (section 5.9 of the CHC policy refers).

## 2 PURPOSE / POLICY STATEMENT

- 2.1 The purpose of the policy is to ensure that an adequate complaints process exists to respond to the patient (or patient representative) need to speak up when services do not meet reasonable expectations. To ensure that complaints arrangements are accessible to people, that people are encouraged and empowered to come forward and that the complaints process is a ‘one-stop-shop’ at a local level with the unified handling of complaints across health and social care boundaries.
- 2.2 The CCG follows ‘My Expectations’ developed by the PHSO, with Healthwatch and the Local Government Ombudsman (LGO), explained in the ‘toolkit for commissioners: Assurance of Good Complaints Handling in Primary Care. It sets out five key steps for the complaints process linked to the ‘I’ questions to provide a user-led vision for raising concerns and complaints as follows:

	“I” Statements	My Expectations - Steps
1	“I felt confident to speak up”	Considering a complaint
2	“I felt that making my complaint was simple”	Making a complaint
3	“I felt listened to and understood”	Staying informed
4	“I Felt that my complaint made a difference”	Receiving outcomes

5	“I would feel confident making a complaint in the future”	Reflecting on the experience.
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- 2.3 The policy follows the Parliamentary Health Service Ombudsman (PHSO) principles of good complaints handing and principles of remedy and in managing complaints, the CCG follows the principles as follows:
- Getting it right
  - Being customer focussed
  - Being open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement
- 2.4 The policy reflects a clear distinction between complaints and other staff issues, such as grievances and disciplinary matters, or contractual issues.
- 2.5 This policy also distinguishes complaints from disputes or grievances between the CCG as a corporate body and its member practices, which must be handled under the dispute resolution procedure as detailed in the CCG’s Constitution.
- 2.6 CCGs are responsible for managing complaints which fall into the following categories only:
- a) Complaints about their own corporate functions or commissioning decisions;
  - b) Complaints about providers of NHS services for which that particular CCG is the lead commissioner (this covers acute, mental health, learning disability and community providers), in cases where the complainant has exercised his or her right to complain to the commissioner of that service rather than directly to the provider.
- 2.7 Specifically, CCGs are not responsible for handling complaints about primary care contractors (GPs, dentists, optometrists/opticians and community pharmacists) or for complaints about CCG governance or conflicts of interest. All such complaints are the responsibility of the Essex Area Team of NHS England.
- 2.8 NHS Thurrock CCG supports it patients throughout the complaints process and will therefore monitor Thurrock patient complaints (it is aware of) to ensure a satisfactory conclusion is reached and to horizon scan for trends in complaints. The handling of those complaints will however be the responsibility of the lead commissioning CCG (unless otherwise agreed with the complainant and relevant CCG). The rationale for this is so that the lead CCG has proper oversight of the services it commissions and can address complaints with the relevant Provider via the Clinical Quality Review Group (CQRG) process.

### 3 DEFINITIONS

<b>Complaint</b>	An expression of dissatisfaction made to an organisation, either written or spoken, and whether justified or not, which requires a response. There is no difference between a ‘formal’ and an ‘informal’ complaint. Both are expressions of dissatisfaction. <i>(defined by the Patients Associated, July 2013)</i>
<b>CHC</b>	Continuing Healthcare

<b>CQRG</b>	Clinical Quality Review Group
<b>LGO</b>	Local Government Ombudsman
<b>PHB</b>	Personal Health Budgets
<b>PHSO</b>	Parliamentary Health Service Ombudsman
<b>The Regulations</b>	Reference to 'the regulations' throughout this document refers to the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 ("the regulations"), which took effect on 1st April 2009 and as clarified by the Department of Health in January 2010.
<b>Urgent Complaints</b>	Complaints made at a time where the person affected is currently under distress or experiencing poor quality care or in the midst of an incident whereby immediate action could result in a positive patient outcome or could prevent further physical or psychological distress.

- 3.1 In defining complaints, the regulations make it clear that a complaint can be made under the health and social care complaints procedure relating to any matter reasonable connected with the exercise of the functions of an NHS body or the exercise of social services functions by a Local Authority. This deliberately allows for complaints about a very wide range of issues relating either to the provision of service or the commissioning or policy decisions of an NHS organisation.

## 4 ROLES AND RESPONSIBILITIES

### 4.1 CCG Board

- 4.1.1 The NHS Thurrock CCG Board is accountable and responsible for ensuring that the CCG has an effective programme for handling complaints in accordance with relevant legislation and best practice guidance. It is assured through the work of the Audit Committee and the Quality & Patient Safety Committee.

### 4.2 Audit Committee

- 4.2.1 The Audit Committee is the committee with prime responsibility for oversight and scrutiny of the CCG's systems and processes for handling complaints.
- 4.2.2 The audit committee will assure itself that adequate processes are in place through scrutiny of quarterly and annual complaints reports.
- 4.2.3 The audit committee will also have oversight of specific complaints allocated to them as 'responsible committee', which will be complaints that do not relate to quality/patient safety, finance or commissioning decisions.

### 4.3 Quality & Patient Safety Committee

- 4.3.1 The Quality & Patient Safety Committee (QPSC) has responsibility for monitoring quality across services commissioned by the CCG. The Committee will be mindful of the importance of gaining and tracking "soft" intelligence about services in addition to the more formal quantitative indicators of quality. This soft intelligence may include patient feedback through formal complaints and informal concerns, comment cards, media coverage and trends of low-level incidents.
- 4.3.2 The Chief Nurse will act as a conduit for both hard and soft quality information between the QPSC and the Essex-wide Quality Surveillance Group.

- 4.3.3 The QPSC is therefore responsible for assuring itself that complaints relating to quality and patient care issues are adequately addressed in accordance with this policy

#### 4.4 All CCG Committees

- 4.4.1 All committees are responsible for the oversight of complaints in their specific area. In addition to the specific committee roles outlined in 4.2 and 4.3 above, the following oversight responsibilities will ensure that all complaints are allocated a specific committee, which will be recorded on the complaints log, and will provide a separation of duty and supervision control so that complaints are not resolved in isolation. Each committee will also be responsible for ensuring that appropriate actions are taken to ensure that 'lessons learnt' is embedded within the CCG complaints culture.

Committee	Responsible for:
Finance & Performance Committee	Complaints in relation to purchasing, income collection, making payments for expenditure.
QIPP Committee	Complaints in relation to commissioning decisions, in particular those relating to the CCG Service Restriction Policy.
Remuneration Committee	Complaints in relation to remuneration from CCG staff.

#### 4.5 Essex-wide Quality Surveillance Group

- 4.5.1 The Essex-wide Quality Surveillance Group takes a strategic overview of quality issues across all providers of NHS services in Essex, utilizing information from a variety of sources, including complaints and concerns.

#### 4.6 Accountable Officer

- 4.6.1 The Accountable Officer has ultimate strategic responsibility for the handling of complaints and concerns by or on behalf of NHS Thurrock CCG and is therefore designated the 'responsible person' for complaints as defined within the regulations. All formal letters of response to complaints will be from the Accountable Officer.

#### 4.7 Chief Nurse

- 4.7.1 The Chief Nurse has CCG Board-level responsibility for improving patient experience, clinical quality and patient safety. The Chief Nurse will be alerted by the Complaints and Concerns Team to any trends in complaints and concerns to be managed through the CCG's quality assurance processes with providers. Specifically the Chief Nurse will also be alerted to all complaints regarding the Provider for which the CCG performs the lead commissioner role.
- 4.7.2 The Chief Nurse will lead on the investigation of complaints in conjunction with the Head of Corporate Governance for those relating to quality issues. This postholder will also provide direct oversight of any complaints from or about children and young people.

**4.8 Head of Corporate Governance**

- 4.8.1 This post holder will serve as Designated Complaints Manager (DCM) for NHS Thurrock CCG in line with the regulations.
- 4.8.2 The Head of Corporate Governance is responsible for ensuring that this policy is regularly reviewed in line with changes in legislation, regulation or best practice and for working with the Executive Nurse to ensure that the CCG has in place appropriate governance mechanisms for embedding learning from complaints into the commissioning cycle and quality management processes.
- 4.8.3 This post is responsible for ensuring that mechanisms are in place for communicating the outcomes and learning from complaints to individual patients/complainants and to the public at large.
- 4.8.4 The Head of Corporate Governance will assist the Executive Nurse or the Head of Integrated Commissioning in investigating “grade 3 or 4” complaints (see section 5.6.) as required.

**4.9 Complaints and Concerns Team**

- 4.9.1 The team comprises the following officers:
  - Chief Nurse
  - Head of Corporate Governance
  - Head of Business Support
  - Representatives from the Business Support Team and Team Administrators.
  - CHC Operational Lead (when responding to CHC/PHB Complaints)
- 4.9.2 The Complaints and Concerns Team will work to resolve concerns and complaints at the earliest possible opportunity and to prevent matters progressing unnecessarily through the complaints process. The Team acts as a visible contact point to enable patients and their representatives to raise their concerns. By means of the quarterly reports to the QPSC, the Complaints and Concerns Team will inform the CCG of the outcome of cases to facilitate improvement of clinical services and commissioned pathways.
- 4.9.3 The Complaints and Concerns Team will allocate specific members of the CCG to support the complaints management function, resolve complaints and ensure that actions are taken to learn any lessons where appropriate. Key staff may include:

Officer	Complaint types
Deputy Chief Nurse	For complaints relating to quality, patient care and CHC / PHB.
Chief Finance Officer	For complaints relating to purchasing, income collection, making payments for expenditure.
Director of Commissioning	For complaints relating to commissioning decisions, in particular those relating to the CCG Service Restriction Policy and contractual compliance rather than quality issues.

**4.10 CHC Team**

- 4.10.1 The CHC Team may receive complaints directly in relation to services commissioned under CHC or the CHC / PHB process itself. These complaints will be managed in accordance with this policy and follow due process the same as all complaints (i.e. managed by the Complaints Team, recorded on the register etc.).
- 4.10.2 CHC staff are therefore required to forward any complaints to the Complaints Team as soon as they are received.
- 4.10.3 The CHC Operational Lead will be integral to the management of related complaints and will form part of the Complaints Team when considering associated complaints.

**4.11 All CCG Staff and / or Specific Board Members**

- 4.11.1 All Board members and staff have a responsibility to appraise themselves of the content of the Complaints and Concerns Policy.
- 4.11.2 All Board members and staff have a duty to work within the standards and guidelines as specified in this policy, ensuring that complainants are made fully aware of their rights under the health and social care complaints process and the support available to them in making their complaint.
- 4.11.3 All Board members and staff have a duty to ensure that patients, their relatives and carers are not discriminated against or treated in any way less favorably when complaints are made.
- 4.11.4 All Board members and staff are required to refer any and all complaints to the Complaints and Concerns team (via complaints email address) where they are in direct receipt of a complaint (whether in written or verbal form). This is to ensure that the complaint is logged in a timely manner and tracked through this complaints process.
- 4.11.5 All Board members and staff are required to co-operate with and assist the Complaints and Concerns Team with the investigation of complaints upon request.

**5 POLICY DETAIL****5.1 Who can make a complaint?**

- 5.1.1 A complaint may be made by a service user or any person affected by or likely to be affected by the action, omission or decision of the NHS body, independent provider or local authority that is the subject of the complaint. Consequently complainants will generally be existing or former users of services that are commissioned by the CCG.
- 5.1.2 Someone wishing to make a complaint about a healthcare related matter has the choice of making a complaint to either the organisation providing the service or the commissioner of that service. In cases where the latter course of action is chosen, the CCG will, at least, retain an overview of the handling of the complaint by the provider.
- 5.1.3 Where a complaint involves more than one commissioner or provider organisation, all parties will be asked to agree which organisation will lead on the investigation and response. This will usually be the organisation about whom the larger portion of the complaint has been made. For example, if a complaint is primarily about the CCG's Service Restriction Policy but also mentions an experience in outpatients at a local hospital, then the CCG would normally lead on the response. In any event, all organisations involved would be expected to co-operate with the investigation and

endorse the response given to the complainant.

5.1.4 The CCG welcomes complaints and concerns from children and young people. As part of the arrangements for publicising the CCG's role in complaints handling, a "children and young person-friendly" leaflet and web content is available. Given the additional safeguards and considerations when handling complaints from children and young people (such as consent and Fraser competence), any cases will be overseen by the Chief Nurse.

5.1.5 Complainants may be a person acting on behalf of the person who:

- Has died
- Is a child
- Is unable to make the complaint themselves because of:
  - Physical incapacity; or
  - Lack of capacity within the meaning of the Mental Capacity Act 2005; or
  - Has requested the representative to act on their behalf.

5.1.6 Where the patient is a child, a complaint can be made by:

- Either parent, or in the absence of both parents, the guardian or other adult who has care of the child;
- A person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989;
- A person duly authorised by a voluntary organisation by which the child is being accommodated.

5.1.7 Where a representative is making a complaint (under 5.1.5 above), the CCG can only consider the complaint where they are satisfied that there is reasonable grounds for the complaint being made by a representative instead of a child, and if not satisfied shall notify the representative in writing, stating the reason for this decision.

5.1.8 In addition, complaints (under 5.1.5 above) must not be considered further (under the regulations) unless the CCG is satisfied that the representative is conducting the complaint in the best interests of the person on behalf of whom the complaint is being made.

## **5.2 Time Limits for Making Complaints**

5.2.1 A complaint should be made as soon as possible after the action giving rise to it, to enable a thorough investigation whilst all the facts regarding the complaint are readily available.

5.2.2 An NHS or social care complaint must be made within 12 months from the date on which a matter occurred, or the date when the matter came to the notice of the complainant. For example, a patient may only become aware that they wish to make a complaint about a hospital consultant's failure to diagnose a condition in an outpatient clinic once he or she has been seen by a specialist at another hospital following emergency admission. In this instance, the 12 months would be calculated from the date of diagnosis by the second specialist.

5.2.3 There is discretion to extend this time limit where it would be unreasonable in the circumstances of a particular case for the complaint to have been made earlier and where it is still possible to properly investigate the facts of the case. An example of this may be where a complainant has been too unwell or upset to raise their complaint sooner.

5.2.4 The Chief Nurse and the Head of Corporate Governance, acting together, will make the decision as to whether “out of time” complaints should be accepted and investigated.

### **5.3 What people cannot complaint about**

5.3.1 The complaints arrangements cannot be used by health organisations or local authorities against other health organisations or local authorities. Similarly, staff working within, or contracted to, those types of organisation cannot use the arrangements to complain about employment, contractual or pension issues.

5.3.2 Also excluded from the arrangements are complaints:

- That have already been investigated under the current or previous complaints regulations;
- That have already been resolved under ‘local resolution’ (see section 5.3);
- Which are being or have been investigated by a Local Commissioner under the Local Government Act 1974, or the Health Service Commissioner under the 1993 Act;
- Arising from the alleged failure to comply with a data subject request under the Data Protection Act 1998;
- Arising out of an alleged failure by an English local authority or NHS body to comply with a request for information under the Freedom of Information Act 2000.

5.3.3 The latter two types of complaint are handled under specific processes set out in the relevant Acts of Parliament, with a route of appeal to the Information Commissioner.

5.3.4 Although falling outside the scope of the complaints arrangements, user feedback on these types of incident may also provide opportunities for organisational learning and service improvement.

5.3.5 Complaints can be investigated if disciplinary action is being considered or taken against a member of staff, provided that the organisation has regard to good practice around restrictions in providing confidential or personal information to the complainant. Although the complaints handling arrangements operate alongside the disciplinary arrangements, the two processes will remain separate.

5.3.6 Complaints can still be investigated where legal action is being taken or the police are involved, provided that it can be established that progressing the complaint might not prejudice subsequent legal or judicial action.

### **5.4 Receiving Complaints**

5.4.1 Complaints may be received verbally over the telephone or during a face-to-face meeting, in writing, by fax or email.

5.4.2 Where complaints are received verbally, a written note of the complaint will be made as soon as is possible and the written record will be shared with the complainant.

5.4.3 Where a complaint is made electronically, the CCG will confirm with the complainant their preference and therefore consent to either continue corresponding electronically (thereby confirming the correct email address for correspondence) or by post.

**5.5 Deciding which body should deal with the complaint**

- 5.5.1 Paragraph 5.1.3 sets out that a multi-agency complaint will be led by the body for which the larger proportion of the complaint has been made, but that this will be agreed by all parties. There is a duty to co-operate set out within the regulations in such cases to ensure that the responsible organisation is specifically identified and that there is appropriate communication with the complainant.
- 5.5.2 Where a complaint has been made by a Thurrock patient, it will be recorded on the NHS Thurrock CCG complaints log.
- 5.5.3 If the subject of the complaint is a Provider where the lead commissioner is not NHS Thurrock CCG, the lead commissioner shall be responsible for investigating the complaint, responding to the complainant and feeding back the outcome to the CCG.
- 5.5.4 Where the CCG considers it more appropriate that the complaint is dealt with by the Provider and the complainant consents; the CCG will so notify the complainant and the Provider. When the Provider receives the notification of the complaint, it will be dealt with in accordance with the regulations and that the complainant is deemed to have made the complaint to the provider under the regulations.
- 5.5.5 Where the complaint is in relation to the provision of social care services, the complaint shall be referred to Thurrock Council to as the responsible body and the complaint shall therefore be managed in accordance with the regulations. The complaint will however be entered on the NHS Thurrock CCG log as a matter of record.
- 5.5.6 Any complaints against staff that involve the safeguarding of children will be referred to the Local Authority Designated Officer (LADO) as per the Southend, Essex and Thurrock (SET) Child Safeguarding Procedures (accessible through the [www.escb.co.uk](http://www.escb.co.uk)).

**5.6 Local Resolution v's the formal complaints process**

- 5.6.1 A complaint which is made orally and is resolved to the complainants satisfaction no later than the next working day after the day on which the complaint was made shall be recorded on the complaint log, but shall not be categorised as a formal complaint because it achieved 'local resolution; and shall be recorded as such. In these cases, those resolved via local resolution will not be reported to the Health and Social Care Information Centre or internally within the CCG, but shall be recorded on the complaint log. A short letter will be written to the complainant confirming that it has been resolved via the informal local resolution process.
- 5.6.2 Formal complaints will be treated equally and with the same matter of expediency, however where urgent complaints are identified (and confirmed by the Chief Nurse); such complaints will be given priority; without detriment to any other complaints.
- 5.6.3 Complaints will be categorised as urgent if they meet the following criteria (or similar):
- Alleged discrimination on the grounds of protected characteristics under the Equality Act 2010.
  - Alleged failure in standards of basic care / dignity and respect, e.g. failure to provide assistance with feeding and toileting.
  - Alleged treatment without valid consent;
  - Alleged or apparent failure by the Provider to comply with the statutory Duty of Candour e.g. failure to disclose medication errors to patients.

- 5.6.4 All formal complaints will be entered onto the complaints log and acknowledged within three working days of the complaint being received regardless of the route from which the complaint was received.

## **5.7 Consent and Capacity to consent**

### To notify the provider

- 5.7.1 Where the CCG receives a complaint about services it commissions, it will ask the complainant for their consent to send details of the complaint to the provider. If consent is received, the provider will be notified as soon as is reasonably practical, but in any case within 5 working days.

### Consent to access records

- 5.7.2 Where a complaint has been made by a representative (that requires the CCG to access the personal records of the person affected as part of the investigation process), the CCG will require formal consent to be granted by the person affected in order to fully investigate the complaint.
- 5.7.3 Where consent cannot be given because the person affected lacks capacity to provide consent (as defined by the Mental Capacity Act 2005) the representative shall be required to demonstrate that they have 'legal authority' (by power of attorney) or that a qualified health professional has confirmed that the person affected does not have capacity and that they are acting on their behalf.
- 5.7.4 Providing the CCG recognises these points and can determine that the person is acting in the best interest of the person affected, the investigation will continue. In this case the CCG will attempt to access only the records that are required as part of the investigation and in the interest of the person affected, in particular if that person is suspected as having being subject to harm, maltreatment or inappropriate care.
- 5.7.5 Where a person lacks the physical capacity to sign a consent form, the principles set out in paragraph 5.5.3 above shall apply. In this case, an appropriate medical or legal professional may witness the verbal consent being provided to facilitate the consent process (please request a verbal consent form). Alternatively, a member of the CCG may (in extenuating circumstances) visit the person affected to gain their consent.
- 5.7.6 Where consent cannot be attained because of a physical or capacity issue, decisions to proceed with an investigation will be made in the best interest of the person affected.
- 5.7.7 Template consent forms are provided in Appendix C and will be sent to the complainant (as appropriate).
- 5.7.8 Consent must be received before action can be taken by the CCG to access patient records or discuss the complaint with another body. Where access to records is not necessary the investigation may commence.
- 5.7.9 Where consent is not provided because the complainant has not responded to repeated contact by the CCG to attain consent, the complaint will be closed and the complainant / representative will be notified accordingly.

## **5.8 Complaints Advocacy Service**

- 5.8.1 Should anyone wishing to complain require assistance in making their complaint and wish to do that with someone independent. The POhWER (Advocacy, making your

voice heard) charity provide independent and free advice, information and advocacy services. They can be contacted by calling 0300 456 2370 or through their website [www.pohwer.net](http://www.pohwer.net).

## **5.9 Communication with patients or their families**

5.9.1 NHS Thurrock CCG will take reasonable steps to ensure that patients or their families or representative are aware of:

- The complaints procedure – by publishing this policy and providing guidance by way of leaflets / posters / easy read complaints process.
- How the CCG can enable them to understand the complaints procedure, or provide advice on where they may obtain such assistance.
- The time limit for resolution – by agreeing in consultation the expected time period for investigating and responding to the complaint.
- How it will be dealt with – the process that will be followed to investigate and respond to the complaint.
- Lead person handling complaints – whether this be the lead at the CCG or by another CCG.
- Right of appeal – that complainants can refer to the ombudsman.
- On-going duty of care, regardless of any complaint – include duty of candour, to apologise to the patient or patient representative.

5.9.2 The CCG will ensure that complainants receive a timely and appropriate response to their complaint, that the outcome of the complaint investigation and any action taken in light of the outcome of the complaint is communicated to the complainant.

5.9.3 The CCG will implement guidance in relation to the duty of candour, to be open and honest in cases where things have gone wrong and to apologise to patients if mistakes in care have led to harm.

## **5.10 Investigation and Response**

5.10.1 The CCG will aim to resolve complaints and provide a response to the complainant within 20 of receiving the initial response.

5.10.2 Where complaints are complex and / or involve a number of parties, the CCG may require additional time to complete the investigation and respond accordingly. In these cases, correspondence will be sent to the complainant 21 days after receiving the initial complaint, to extend the expected resolution timescale.

5.10.3 The CCG will aim to deal with all complaints at the earliest opportunity and where possible through local resolution, although it is acknowledged that local resolution is normally more effective in the setting in which the complaint originally occurred.

5.10.4 On receipt of a complaint, an acknowledgement letter confirming that the complaint has been received and the salient points of the complaint that requires a response will be sent to the complainant within three working days of the complaint being received. The letter will confirm who is dealing with the complaint and that the CCG will aim to resolve the complaint within 20 days.

5.10.5 All complaints will be recorded in the complaints log by the assigned Complaints Investigator or the Complaints Manager.

5.10.6 The complaint will be discussed by Head of Corporate Governance and Chief Nurse

to determine the most appropriate course of action for investigation.

5.10.7 Once consent has been received (if required), as outlined in section 5.7, the complaints investigator will make the necessary enquiries with the persons involved in the issue under investigation.

5.10.8 Other forms of investigation could involve (where deemed appropriate):

- Review of patient records
- Meeting with Providers to discuss complaint issues
- Requiring explanations from Providers
- Discussion of the complaint issue at an appropriate internal (committee) forum
- Reviewing CCG policy and procedures
- Assessing any associated documentation (e.g. minutes of meetings)
- Interviewing staff members
- Observing premises or care

5.10.9 The purpose of the investigation is to determine the true facts of the complaint in order to respond accordingly to the complainant. This may require a detailed 'Root Cause Analysis', which will be formally documented in the complaint file.

5.10.10 The outcome of the complaint will be categorised as:

- **Fully Justified:** investigations support the claim in full
- **Partially Justified:** investigations do not fully support the complaint and evidence shows that appropriate measures were in place in some cases (where applicable)
- **Not Justified:** the complaint was not genuine and should be addressed by other means (such as a subject access request under the Data Protection Act 1998 or request under the Freedom of Information Act 2000) or the complaint is already being investigated or the evidence available could not support or otherwise refutes the complaint.

5.10.11 All records in relation to the complaint will be saved in a specific (secure) complaints file, codified by the originating complaint reference number.

5.10.12 A formal response letter (complaint investigation report) will be sent to the complainant outlining the investigation and answering the points raised in the initial complaint from the Responsible Officer (Accountable Office). The letter will include:

- A clear statement of the issues, investigations and the findings, giving clear evidence-based reasons for decisions if appropriate
- Where errors have occurred, explain these fully and state what will be done to put these right, or prevent repetition
- A focus on fair and proportionate outcomes for the complainant, including any remedial action or compensation (see section 5.15)
- A clear statement that the response is final, or that further action or reports will be sent later
- An apology or explanation as appropriate (in accordance with duty of candor requirements)
- A statement of the right to escalate the complaint (Stage 2), together with the relevant contact detail for the Parliamentary Health Service Ombudsman.

## 5.11 The Complaints Register

5.11.1 All complaints are recorded in and monitored through the complaints register. As a minimum, the register will contain the following information:

- Complaint Reference (linked to the complaints file)
- Date Received
- Status
- Complaints Investigator
- Type of Complaint
- Subject of the Complaint
- Complainant name and contact details (and type of complainant)
- Details of the patient (if a quality / patient care complaint)
- Method received and date of incident
- Brief description of the complaint
- Consent
- Initial Response
- Outcome
- Closure date
- Lessons Learned
- Committee reported to

## 5.12 Parliamentary Health Service Ombudsman (Stage 2 Complaints)

5.12.1 If the complainant remains dissatisfied with how their complaint has been responded to and it is felt that CCG complainants process has reached an end, then on agreement with the Responsible Officer, the complainant will be advised in writing that the CCG has no further comment to make on this matter and it will inform them of their right to seek an independent review of their outstanding concerns by the Parliamentary Health Service Ombudsman (PHSO).

5.12.2 Details of the PHSO are:

The Parliamentary and Health Service Ombudsman  
Millbank Tower  
Millbank  
London SW1P 4QP

[www.ombudsman.org.uk/make-a-complaint](http://www.ombudsman.org.uk/make-a-complaint).

0345 015 4033

## 5.13 Learning Lessons from Complaints

5.13.1 The Complaints Manager will identify lessons learnt and recommendations as part of the complaints investigation process. These are recorded on the Complaint Register.

5.13.2 Lessons learnt from the investigation will be reviewed by the Audit Committee to identify the appropriate method of applying the actions within the CGG (and wider where necessary) and distributing the learning points, such as publishing on the intranet, all-staff emails or at team meetings.

## 5.14 Standards in Complaints and Concerns Handling

5.14.1 NHS Thurrock CCG endorses and adopts the standards of good complaints handling proposed by the Parliamentary & Health Service Ombudsman in their “Principles of Good Complaints Handling” (November 2008, amended February 2009) and the Patients Association “Good Practice Standards for NHS Complaints Handling” (July 2013).

5.14.2 The Patients Association Standards are as follows:

- Standard One – the complainant has a single point of contact in the organisation and is placed at the centre of the process. The nature of their complaint and the outcome they are seeking is established at the outset.
- Standard Two – the complainant undergoes initial assessment and any necessary immediate action is taken. A lead investigator is identified.
- Standard Three – investigations are thorough, where appropriate independent evidence and opinion are obtained, and are carried out in accordance with local procedures, national guidance and within legal frameworks.
- Standard Four – the investigator reviews, organises and evaluates the investigative findings.
- Standard Five – the judgement reached by the decision maker is transparent, reasonable and based on the evidence available.
- Standard Six – the complaint documentation is accurate and complete. The investigation is formally recorded, the level of detail appropriate to the nature and seriousness of the complaint.
- Standard Seven – both the complainant and those complained about are responded to adequately.
- Standard Eight - the investigation of the complaint is complete, impartial and fair.
- Standard Nine – the organisation records, analyses and reports complaints information throughout the organisation and to external audiences.
- Standard Ten – learning lessons from complaints occurs throughout the organisation.
- Standard Eleven – governance arrangements regarding complaints handling are robust.
- Standard Twelve – individuals assigned to play a part in a complaint investigation have the necessary competencies.

5.14.3 A random sample 10% of all complaints and concerns handled by the CCG will be audited against these standards each quarter and the outcome reported to the Audit Committee within the quarterly report.

**5.15 Remedy and Redress**

- 5.15.1 The CCG recognises that providing fair and proportionate remedies is an integral part of good customer service and complaints handling, as recommended by the Health Service Ombudsman's Principles for Remedy. It is recognised that in some cases, this may include some element of financial redress.
- 5.15.2 If during their investigation of a complaint, the CCG consider that offering financial redress would be appropriate, any proposal must be discussed with the Head of Corporate Governance and Chief Nurse. The responsible officer (Accountable Officer) and the Chief Finance Officer will decide upon the amount of financial redress.
- 5.15.3 In reviewing complaints referred to them under stage two of the complaints process, the Health Service Ombudsman may recommend that a payment be made. All recommendations for financial and non-financial redress will be considered by the Quality & Governance Committee as part of that committee's review of all relevant Health Service Ombudsman complaint investigation reports. Any recommendations for making redress payments would need to be approved by the Chief Finance Officer. Where the recommendation to make a payment is not implemented, the reasons will be explained to the complainant and the Health Service Ombudsman in writing.
- 5.15.4 Where the CCG is investigating complaints about a primary, secondary or tertiary care provider, the provider (rather than the CCG) would be responsible for making any payments given as remedy at local resolution or following Health Service Ombudsman review.
- 5.15.5 Any payments made by the CCG itself by way of remedy would be logged in the Register of Losses & Special Payments and reported to the Audit Committee, in line with the CCG's Standing Financial Instructions.

**5.16 Dealing with Unreasonable, Abusive or Persistent Complainants**

- 5.16.1 NHS Thurrock CCG will treat complainant with upmost respect and courtesy. However, It is recognised that in a minority of cases, complainants may become persistent and unreasonable in their pursuit of a complaint and that this in turn has a detrimental effect on staff and services. This applies not only to those who make a complaint but also those who contact the CCG verbally with informal concerns.
- 5.16.2 NHS Thurrock CCG fully supports the NHS zero tolerance policy and whilst it is understood that complainants will sometimes be distressed and angry, abusive conduct in all forms is unacceptable and unfair to NHS staff.
- 5.16.3 In all cases where the CCG is considering terminating contact with a complainant on account of their unreasonable, abusive or unduly persistent conduct, this proposed course of action will be discussed with the CCG Head of Corporate Governance and the Chief Nurse in an attempt to explore alternative solutions or, in case termination of contact becomes necessary, to provide senior management support for the decision.

**5.17 Publicising Complaints Arrangements**

- 5.17.1 The CCG will ensure that its role and responsibilities with respect to complaints and concerns is effectively publicised on a rolling basis, using a variety of media. To maximise clarity and convenience for those wishing to raise complaints and concerns, publicity and communication will be co-ordinated with partner

organisations, particularly other local CCGs, the Essex Area Team of NHS England and Thurrock HealthWatch.

5.17.2 The CCG will take all reasonable steps to ensure that the following patient/client groups and organisations are informed of the complaints handling arrangements and points of contact:

- Patients and their carers
- Staff directly employed by the CCG and CSU
- Primary care contractors and their staff
- Independent providers with whom arrangements have been made under Section 16CC of Section 23 of the NHS Act, 1977
- Thurrock HealthWatch

### **5.18 Reporting and Review**

5.18.1 The Audit Committee will receive a written report of the number and nature of complaints and concerns received each quarter, including an analysis of the outcome of each case and lessons for the CCG as commissioner.

5.18.2 The CCG will produce an annual complaints report, incorporating a review of complaints received, along with any learning or changes to procedures, which have arisen. This report is to be made available to any person who requests it, and may form part of the Freedom of Information Act Publication Scheme.

5.18.3 The Annual Complaints Report will include:

- Statistics on the number of complaints received
- Analysis of whether the complaints were Fully Justified / Partially Justified / Not Justified
- Known referrals to the Ombudsman
- Subject matter / categorisation / clinical care
- Learning points
- Methods of complaints management
- Outcome of the annual audit (paragraph 5.18.6 refers)
- Any changes to procedure, policies or care which have resulted from complaints

5.18.4 An annual complaints report will act as a vehicle for communicating how complaints have led to service improvements.

5.18.5 The CCG Annual Report will include reference to the complaints received by the CCG and the Complaints annual report.

5.18.6 An annual review or audit of complaints will be undertaken either by the Head of Corporate Governance or the CCG Internal Auditors.

5.18.7 CCG Committees (outlined in section 4.4) will also receive a quarterly update on complaints in their departmental areas. The committee who has been sighted on the complaint will be recorded in the complaints register.

5.18.8 The CCG will complete quarterly returns to NHS Digital (formally Health and Social Care Information Centre) as part of its national mandatory submissions. Successful submission of the return will be reported in the quarterly complaints report.

5.18.9 The Health Service Ombudsman will provide valuable feedback to the CCG following the independent review of complaints under stage two of the complaints process.

### **5.19 Confidentiality**

5.19.1 All complaints must be treated in the strictest confidence.

5.19.2 Where the investigation of the complaint requires consideration of the patient's medical records, Complaints Manager must inform the patient or person acting on his/her behalf if the investigation will involve disclosure of information contained in those records to a person other than the organisation or an employee of the organisation.

5.19.3 The CCG must keep a record of all complaints and copies of all correspondence relating to complaints, but such records will be kept secure and in accordance with the Data Protection Act.

### **5.20 CHC Complaints**

5.20.1 The NHS Thurrock CCG CHC Operational Policy sets out the processes in place for assessing patients in accordance with national guidance to determine eligibility for Continuing Healthcare funding (which is also a pre-requisite for eligibility for PHBs).

5.20.2 The policy establishes a process for challenging the completion of 'checklists' as the first step in the eligibility assessment, and also for appealing against any decision made by the Multi-Disciplinary Team who undertake the assessments.

5.20.3 Once those processes have been exhausted, if the patient still disagrees with the assessment of the team, it is their right to complain through the CCG Complaints process (stage 1) or then through the PHSO (stage 2).

5.20.4 Any complaint received in relation to a CHC assessment will be reviewed by the Complaints Team at the CCG to ensure that due process (as defined in the national guidance and CHC Operational Policy) has been followed and that the appeals process has been appropriately exhausted.

## **6 MONITORING COMPLIANCE**

6.1 Implementation of this policy will be monitored by the Audit Committee.

6.2 Responsibility for operational monitoring of this policy within the CCG will be with the Head of Corporate Governance.

6.3 An annual audit of the complaints process will be undertaken by either the Head of Corporate Governance or the CCG Internal Auditors, which will assess whether the complaints process has followed the principles of this policy. The outcome of the audit will be included within the Annual Complaints Report.

6.4 The following Key Performance Indicators will be monitored to ensure compliance with this policy:

- Submitting HSCIC returns within the required deadline
- Acknowledging complaints within 3 working days

- Completing complaints within 20 days or providing a written explanation for those exceeding that timescale
- Full reporting to the Audit Committee (quarterly), tailored reporting to QPSC, QIPP, F&P as required, annual reporting to the Board.

## **7 STAFF TRAINING**

- 7.1 All staff will be made aware of the CCG Complaints policy and any action that should be taken if a complaint is received.
- 7.2 Staff involved in investigating and responding to complaints will have additional training and experience commensurate with their role to enable them to respond adequately and appropriately in accordance with this policy.

## **8 ARRANGEMENTS FOR REVIEW**

- 8.1 This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance.
- 8.2 If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the CCG Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the CCG Board.

## **9 ASSOCIATED DOCUMENTATION**

- Template Complaint Response Letters.
- Child friendly complaints policy.
- Patient Complaint Leaflet.

### **Associated Policies**

- Risk Management Policy and Strategy
- Communications and Engagement Strategy
- Continuing HealthCare Policy
- Safeguarding Children Policy
- Safeguarding Adults Policy
- Information Governance Policies

## **10 REFERENCES**

- Provide a list of references of the documents that have informed or contributed to this policy.

## 11 LIST OF STAKEHOLDERS CONSULTED

Date Policy Circulated	Name of Individual or Group	Were Comments Received?	Were Comments incorporated into Policy?	If no, why not?
13/09/16	Integrated Governance Group	Yes	Yes	
27/09/16	Audit Committee	Yes	Yes	

## 12 Results of Equality Impact Assessment

- 12.1 The EIA has identified no equality issues with this policy.
- 12.2 The EIA has been included as Appendix A.

## 13 Change History:

Date	Version	Author	Description
	1.0	Andrew Stride	Original Approved Policy
13/09/16	1.1	Nicola Meeks	Updated Policy
20/09/16	1.2	Nicola Meeks	Policy amended to include feedback from IGG.
27/09/16	1.3	Nicola Meeks	Policy amended to include feedback from Audit Committee.

### Equality Impact Assessment

To be completed and attached to any policy/procedural document when submitted to the appropriate committee for consideration and approval.

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	<ul style="list-style-type: none"> <li>▪ Race</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Ethnic origins (including gypsies and travellers)</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Nationality</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Gender</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Culture</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Religion or belief</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Sexual orientation including lesbian, gay and bisexual people</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Age</li> </ul>		
	<ul style="list-style-type: none"> <li>▪ Disability - learning disabilities, physical disability, sensory impairment and mental health problems</li> </ul>		
2.	Is there any evidence that some groups are affected differently?		
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?		
4.	Is the impact of the policy/guidance likely to be negative?		
5.	If so can the impact be avoided?		
6.	What alternatives are there to achieving the policy/guidance without the impact?		
7.	Can we reduce the impact by taking different action?		

Complaints Process

